

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Civil Action No.:

KIMBERLY M. CARLISLE,

Plaintiff,

v.

ABRAM WIEBE and MINER

EXCAVATING AND TRUCKING LTD,

Defendants.

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NOTICE OF REMOVAL

Defendant, MINER EXCAVATING AND TRUCKING, LTD., by and through counsel, respectfully removes the above-entitled action from the Superior Court of Sampson County, North Carolina, to this Court, pursuant to 28 U.S.C. §1332(a)(1) and §1441(a), on the following grounds:

1. This action is being removed to federal court based upon diversity of citizenship.
2. On August 19, 2021, a civil action was filed in the Superior Court of Sampson County, North Carolina, styled "KIMBERLY M. CARLISLE V. ABRAM WIEBE and MINER EXCAVATING AND TRUCKING, LTD," No. 21 CVS 916 (hereinafter "Superior Court action"). A copy of the Complaint was served on the Defendant no sooner than September 8, 2021. This notice is being filed within thirty (30) days of the date of service of the summons and complaint in this cause.
3. Upon information and belief, Defendant ABRAM WIEBE has not been served with the summons and complaint as of the date of filing of this pleading.
3. Plaintiff's claims for relief against the Defendant in the Superior Court action arise out of a dispute concerning a motor vehicle accident allegedly causing personal injury to plaintiff.

4. The Superior Court action is a suit of wholly civil nature over which the United States District Court for the Western District of North Carolina has original jurisdiction under 28 U.S.C. §1332(a), and one that may be removed by the Defendant pursuant to 28 U.S.C. §1441(a), in that:

- (a) At the commencement of this action and at all times material hereto, Plaintiff, Kimberly M. Carlisle, was and is a resident of Sampson County, North Carolina.
- (b) Defendant Minor Excavating and Trucking, Ltd., at the commencement of this action and at all times material hereto, was and is a resident of Saskatchewan, Canada.
- (c) Defendant Abram Wiebe, at the commencement of this action and at all times material hereto was and is a resident of Saskatchewan, Canada.
- (d) Therefore, the matter in controversy between Plaintiff and Defendants was at the commencement of this action and now is one in which complete diversity of citizenship exists.
- (e) The matter in controversy between the Plaintiff and Defendants in this action, exclusive of interest and costs, exceeds the sum of \$75,000.00.
- (f) Therefore, Defendant files this notice of removal of this action from the aforesaid Superior Court in which it is now pending to the United States District Court for the Western District of North Carolina.

5. Attached to this notice, as Exhibit 1, are copies of all process, pleadings and orders served upon the Defendants in the Superior Court action.

6. A copy of this Notice of Removal has been filed in the Office of the Clerk of Superior Court of Sampson County, North Carolina, as shown by the notice attached hereto as Exhibit 2.

WHEREFORE, Defendant prays that this action be removed from the Superior Court of Sampson County to the United States District for the Western District of North Carolina.

Respectfully submitted this the 8th day of October, 2021.

s/ GEORGE L. SIMPSON, IV
George L. Simpson, IV
Attorney for Defendant
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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of October, 2021, I electronically filed the foregoing Notice of Removal with the Clerk of the Court using the CM/ECF system, and I hereby certify that I have mailed the document as follows:

T. Shawn Howard
Maginnis Howard
7706 Six Forks Road; Suite 101
Raleigh, North Carolina 27615

Andrew P. Cioffi
Cioffi Law Firm
4208 Six Forks Road; Suite 1000
Raleigh, North Carolina 27609

Abram Wiebe
115 Pineview Drive
Winkler MB, Saskatchewan, Canada R6W2A2

Respectfully submitted this the 8th day of October, 2021.

s/ GEORGE L. SIMPSON, IV
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